

REMARKS

The Office Action mailed December 9, 2005, has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-6, and 8-23 are now pending in this application. Claims 1-23 stand rejected. Claim 7 has been canceled.

The objections to the drawings are respectfully traversed. Specifically, Claim 7 has been canceled and as such, every feature specified in the claims is illustrated. For at least the reasons set forth above, Applicants respectfully request the objections to the drawings be withdrawn.

The objections to the Claims are respectfully traversed. Specifically, Claims 1, 4, 5, and 17 have each been amended to correct the noted spelling error. In addition, Claim 4 has been amended to depend from Claim 2, and Claim 22 has been amended to depend from Claim 21. For at least the reasons set forth above, Applicants respectfully request the objections to the Claims be withdrawn.

The rejection of Claim 7 under 35 U.S.C. § 112 is respectfully traversed. Claim 7 has been canceled. For at least the reasons set forth above, Applicants respectfully request the Section 112 rejection of Claim 7 be withdrawn.

The rejection of Claims 1, 4, and 10 under 35 U.S.C. § 112 is respectfully traversed. Claims 1 and 10 have each been amended to recite that the “display area is configured to receive at least two blister packages therein.” As such, Claims 1 and 10 more clearly defined the features of the device. With respect to Claim 4, Claim 4 has been amended to depend from Claim 2 which provides antecedent basis for the limitations of Claim 4. For at least the reasons set forth above, Applicants respectfully request the Section 112 rejections of Claims 1, 4, and 10 be withdrawn.

The rejection of Claims 1-7, 10-18, and 20-23 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 6,631,812 (Ruiz) is respectfully traversed.

Ruiz describes a stemware suspender (12) that includes a frame (14) having two side members (16 and 18), a front member (20), and a rear member (22). A web (24) extends integrally between members (16 and 18) such that a first elongated opening (26) is defined between side member (16) and web (24) and a second opening (28) is defined between side member (18) and web (24). Three openings (30A, 30B, and 30C) extend through web (24) to enable suspender (12) to be mounted beneath a generally horizontal structure. Each side member (16 and 18) includes a respective side wall (34 and 36) that each include a respective sloping support member (38 and 40). Members (38 and 40) slope slightly towards each other, but remain a distance apart that is sufficient to allow the stem of any stemware that is to be suspended from suspender to be inserted therebetween. More specifically, as recited at column 4, lines 1-5, the “sloping inner surfaces of support members 38 and 40 allow a piece of stemware to ‘self center’ itself . . . to assist in keeping the stemware vertical, a series of ribs 54 may be provided on the inner surfaces of support members 38 and 40.” Notably, Ruiz does not describe nor suggest that the stemware suspended from the suspender could at least partially overlap within the suspender.

Claim 1 recites a display rack for displaying at least one blister package, wherein the display rack comprises “a first elongated member . . . a second elongated member . . . a siderail extending substantially perpendicularly between said first and second elongated member first ends such that said first elongated member channel substantially mirrors said second elongated member channel such that a display area is defined between said first and second elongated member channels . . . said display area is configured to receive at least two blister packages therein such that each blister package is retained within said display area by said first and second elongated members, such that adjacent blister packages partially overlap within said first and second member channels.

Ruiz does not describe nor suggest a display rack for displaying at least one blister package as is recited in Claim 1. Specifically, Ruiz does not describe nor suggest a display area that is configured to receive at least two blister packages therein such that each blister package is retained within said display area by the first and second elongated members, such that adjacent blister packages partially overlap within the first and second member channels. Rather, in contrast, Ruiz describes a stemware suspender that includes sloped side members that allow a piece of stemware inserted therein to “self center” such that the stemware is

suspended vertically from the suspender. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Ruiz.

Claim 7 has been canceled. Claims 2-6 depend from independent Claim 1. When the recitations of Claims 2-6 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-6 likewise are patentable over Ruiz.

Claim 10 recites a display rack assembly for displaying at least one blister package, wherein the display rack assembly comprises “at least one pair of opposed elongated members coupled together by a first support member that extends between adjacent ends of said pair of elongated members, and a second support member that extends between adjacent opposite ends of said elongated members . . . said pair of elongated members are spaced apart such that a display area is defined between said pair of elongated members . . . said display area is configured to receive at least two blister packages therein such that opposite sides of each blister package are slidably coupled within said pair of elongated member channels, and such that adjacent blister packages partially overlap within said first and second member channels.

Ruiz does not describe nor suggest a display rack assembly for displaying at least one blister package as is recited in Claim 10. Specifically, Ruiz does not describe nor suggest a rack assembly including a display area that is configured to receive at least two blister packages therein such that each blister package is retained within said display area by the first and second elongated members, such that adjacent blister packages partially overlap within the first and second member channels. Rather, in contrast, Ruiz describes a stemware suspender that includes sloped side members that allow a piece of stemware inserted therein to “self center” such that the stemware is suspended vertically from the suspender. For at least the reasons set forth above, Claim 10 is submitted to be patentable over Ruiz.

Claims 11-18 depend from independent Claim 10. When the recitations of Claims 11-18 are considered in combination with the recitations of Claim 10, Applicants submit that dependent Claims 11-18 likewise are patentable over Ruiz.

Claim 20 recites a method of displaying blister packages within a display rack wherein the method comprises “coupling a first elongated member to a support member . . . positioning a second elongated member adjacent the support member . . . coupling the second

elongated member to the support member . . . slidably coupling at least two blister packages into a display area defined between the opposed channels such that opposite sides of each blister package are received within the channels for retention within the display rack and such that adjacent blister packages partially overlap within the first and second member channels.

Ruiz does not describe nor suggest a method for displaying blister packages within a display rack as is recited in Claim 20. Specifically, Ruiz does not describe nor suggest a slidably coupling at least two blister packages into a display area defined between the opposed channels such that opposite sides of each blister package are received within the channels for retention within the display rack and such that adjacent blister packages partially overlap within the first and second member channels. Rather, in contrast, Ruiz describes a stemware suspender that includes sloped side members that allow a piece of stemware inserted therein to “self center” such that the stemware is suspended vertically from the suspender. For at least the reasons set forth above, Claim 20 is submitted to be patentable over Ruiz.

Claims 21-23 depend from independent Claim 20. When the recitations of Claims 21-23 are considered in combination with the recitations of Claim 20, Applicants submit that dependent Claims 21-23 likewise are patentable over Ruiz.

For at least the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1-7, 10-18, and 20-23 be withdrawn.

The rejection of Claims 9 and 19 under 35 U.S.C. § 103(a) as being unpatentable by U.S. Pat. No. 6,631,812 (Ruiz) is respectfully traversed.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, the mere assertion that it would have been obvious to one of ordinary skill in the art to have modified Ruiz to obtain the claimed recitations of the present invention does not support a prima facie obvious rejection. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art and the Applicants given the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference. Applicants have not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore,

fails to provide the Applicants with a fair opportunity to respond to the rejection, and fails to provide the Applicants with the opportunity to challenge the correctness of the rejection.

Moreover, obviousness cannot be established by merely suggesting that it would have been an obvious to one of ordinary skill in the art to modify Ruiz. As explained by the Federal Circuit, “to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Applicant.” In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Furthermore, as is well established, the mere fact that the prior art structure could be modified does not make such a modification obvious unless the prior art suggests the desirability of doing so. See In re Gordon, 221 U.S.P.Q.2d 1125 (Fed. Cir. 1984). Furthermore, the Federal Circuit has determined that:

[i]t is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.”

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, “it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.” In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants’ disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants’ disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown. As such, for at least the reasons set forth above, Applicants request that the Section 103 rejection of Claims 9 and 19 be withdrawn.

In addition, and to the extent understood, Ruiz does not describe nor suggest the claimed combination. Specifically, Claim 9 depends from independent Claim 1 which recites recites a display rack for displaying at least one blister package, wherein the display rack comprises “a first elongated member . . . a second elongated member . . . a siderail extending substantially perpendicularly between said first and second elongated member first ends such

that said first elongated member channel substantially mirrors said second elongated member channel such that a display area is defined between said first and second elongated member channels . . . said display area is configured to receive at least two blister packages therein such that each blister package is retained within said display area by said first and second elongated members, such that adjacent blister packages partially overlap within said first and second member channels.

Ruiz does not describe nor suggest a display rack for displaying at least one blister package as is recited in Claim 1. Specifically, Ruiz does not describe nor suggest a display area that is configured to receive at least two blister packages therein such that each blister package is retained within said display area by the first and second elongated members, such that adjacent blister packages partially overlap within the first and second member channels. Rather, in contrast, Ruiz describes a stemware suspender that includes sloped side members that allow a piece of stemware inserted therein to “self center” such that the stemware is suspended vertically from the suspender. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Ruiz.

Claim 9 depends from independent Claim 1. When the recitations of Claim 9 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 9 likewise is patentable over Ruiz.

Claim 19 depends from independent Claim 10 which recites a display rack assembly for displaying at least one blister package, wherein the display rack assembly comprises “at least one pair of opposed elongated members coupled together by a first support member that extends between adjacent ends of said pair of elongated members, and a second support member that extends between adjacent opposite ends of said elongated members . . . said pair of elongated members are spaced apart such that a display area is defined between said pair of elongated members . . . said display area is configured to receive at least two blister packages therein such that opposite sides of each blister package are slidably coupled within said pair of elongated member channels, and such that adjacent blister packages partially overlap within said first and second member channels.

Ruiz does not describe nor suggest a display rack assembly for displaying at least one blister package as is recited in Claim 10. Specifically, Ruiz does not describe nor suggest a

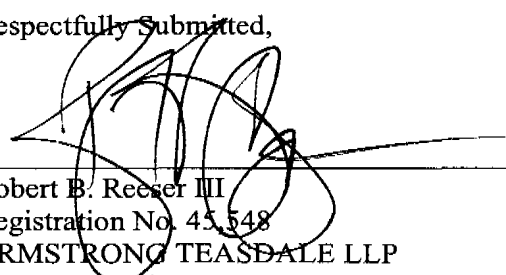
rack assembly including a display area that is configured to receive at least two blister packages therein such that each blister package is retained within said display area by the first and second elongated members, such that adjacent blister packages partially overlap within the first and second member channels. Rather, in contrast, Ruiz describes a stemware suspender that includes sloped side members that allow a piece of stemware inserted therein to “self center” such that the stemware is suspended vertically from the suspender. For at least the reasons set forth above, Claim 10 is submitted to be patentable over Ruiz.

Claim 19 depends from independent Claim 10. When the recitations of Claim 19 are considered in combination with the recitations of Claim 10, Applicants submit that dependent Claim 19 likewise is patentable over Ruiz.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 9 and 19 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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